

Notice of Allowability**Application No.**

09/378,878

Applicant(s)

WORTHINGTON ET AL.

Examiner

Anand Bhatnagar

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 06/18/04.
2. ☒ The allowed claim(s) is/are 1-17, 19-22, 27-32, 36, 37, 39-54, 56, 57, 59-63, 66-74 and 207-212.
3. ☒ The drawings filed on 08/23/99 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
(a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
(b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date <u>09/23/04</u> . |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |

EXAMINER'S AMENDMENT

1. Examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Gregory Hermanson on 09/20/04.

2. A.) Please substitute the following claims for claims 27 and 39, respectively:

27. A method of analyzing data acquired by reading an optical disc having at least one readable analyte-specific signal element, said method comprising:

identifying a pattern in said data that reports a physical property of said at least one readable analyte-specific signal element, said reported physical property being a structural size measured in a substantially tangential direction extending across at least two adjacent tracks on the disc, and wherein said reported physical property inheres in said at least one readable analyte-specific signal element, and wherein said reported property depends upon a position of said pattern in said data.

39. A method of analyzing data generated by reading a trackable optical disc having a plurality of physically non-identical concurrently readable analyte-specific signal elements, said method comprising identifying patterns in said data that distinguish among said physically non-identical concurrently readable analyte-specific signal elements, wherein said identifying is performed in a manner that is dependent on absolute position of said pattern in said data, and wherein said the act of identifying is performed using a structural dimension of

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said physically non-identical concurrently readable analyte-specific signal elements measured in a substantially tangential direction extending across at least two adjacent tracks on the disc.

B.) Please cancel claims 133-136, 138-146, 149-157, 159-174, and 177-181.

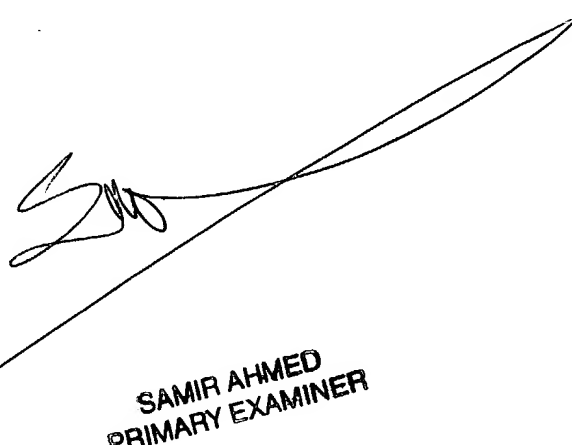
Contact Information

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anand Bhatnagar whose telephone number is (703) 306-5914, whose supervisor is Amelia Au whose number is 703-308-6604, group fax is 703-872-9306, and Tech center 2600 customer service office number is 703-306-0377.

Anand Bhatnagar

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September 23, 2004



SAMIR AHMED
PRIMARY EXAMINER

Allowable Subject Matter

1. Applicant has canceled claims 18, 23-26, 33-35, 38, 55, 58, 64, 65, 75-132, 137, 147, 148, 158, 175, 176, and 182-206. Applicant authorized examiner to cancel, by examiner's amendment, filed 09/23/04, the following claims: claims 133-136, 138-146, 149-157, 159-174, and 177-181. Currently, claims 1-17, 19-22, 27-32, 36, 37, 39-54, 56, 57, 59-63, 66-74, and 207-212.

2. Claims 1-17, 19-22, 27-32, 36, 37, 39-54, 56, 57, 59-63, 66-74, and 207-212 are allowed.

Applicant's arguments, see amendment/remarks, filed on 06/18/04, with respect to claims 1 and 39 have been fully considered and are persuasive. The 35USC 112, 1st and 2nd paragraph, and 35USC 103 rejections of claims 1 and 39 has been withdrawn. Regarding claim 27: It is allowable for the same reasons as claims 1 and 39.

3. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

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Contact Information

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anand Bhatnagar whose telephone number is (703) 306-5914, whose supervisor is Amelia Au whose number is 703-308-6604, group fax is 703-872-9306, and Tech center 2600 customer service office number is 703-306-0377.

AB

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September 23, 2004


SAMIR AHMED
PRIMARY EXAMINER